

## 22VAC40-665-470. Definitions; Subsidy Program Requirements for Child Day Center Vendors.

### Part III. Subsidy Program Vendor Requirements for Child Day Centers

The following words and terms when used in this part shall have the following meanings unless the context clearly indicates otherwise:

"Accessible" means capable of being entered, reached, or used.

"Adult" means any individual 18 years of age or older.

"Age and stage appropriate" means the curriculum, environment, equipment, and adult-child interactions are suitable for the ages of the children within a group and the individual needs of any child.

"Age groups":

1. "Infant" means a child from birth to 16 months.
2. "Toddler" means a child from 16 months up to two years.
3. "Preschool" means a child from two years up to the age of eligibility to attend public school, five years by September 30.
4. "School age" means a child eligible to attend public school, age five or older by September 30 of that same year. Four-year-old or five-year-old children included in a group of school children may be considered school age during the summer months if the children will be entering kindergarten that year.

"Attendance" means the actual presence of an enrolled child.

"Body fluids" means urine, feces, vomit, saliva, blood, nasal discharge, eye discharge, and injury or tissue discharge.

"Center" means a child day center.

"Child" means any individual less than 18 years of age.

"Child day center" means a child day program offered to (i) two or more children less than 13 years of age in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child experiencing homelessness" means a child who lacks a fixed, regular, and adequate nighttime residence and includes:

1. A child who is living in a car, park, public space, abandoned building, substandard housing, bus or train station, or similar settings;
2. A child who is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as "doubled-up");
3. A child who is living in a motel, hotel, trailer park, or camping grounds due to lack of alternative adequate accommodations;
4. A child who is living in congregate, temporary, emergency, or transitional shelters;
5. A child who is abandoned in a hospital;
6. A child who is living in a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; and
7. A child who is a migratory child as defined in § 1309 of the Elementary and Secondary Education Act of 1965, P.L. No. 8910 (20 USC § 6399) who qualifies as homeless because he is living in circumstances described in subdivisions 1 through 6 of this definition.

"Child with special needs or disability" means (i) a child with a disability as defined in § 602 of the Individuals with Disabilities Education Act (20 USC § 1401); (ii) a child who is eligible for early intervention services under Part C of the Individuals with Disabilities Education Act (20 USC § 1431 et seq.); (iii) a child who is less than 13 years of age and who is eligible for services under § 504 of the Rehabilitation Act of 1973 (29 USC § 794); and (iv) a child with a documented developmental disability, intellectual disability, emotional disturbance, sensory or motor impairment, or significant chronic illness who requires special health surveillance or specialized programs, interventions, technologies, or facilities.

"Cleaned" means treated in such a way as to remove dirt and debris by scrubbing and washing with soap and water or detergent solution and rinsing with water or the use of an abrasive cleaner on inanimate surfaces.

"Communicable disease" means a disease caused by a microorganism (bacterium, virus, fungus, or parasite) that can be transmitted from person to person via an infected body fluid or respiratory spray, with or without an intermediary agent (such as a louse or mosquito) or environmental object (such as a table surface). Some communicable diseases are reportable to the local health authority.

"Department" means the Virginia Department of Social Services.

"Department representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the Commissioner of the Virginia Department of Social Services.

"Evacuation" means movement of occupants out of the building to a safe area near the building.

"Evening care" means care provided after 7 p.m. but not through the night.

"Group size" means the number of children assigned to a staff member or team of staff members occupying an individual room or area.

"Inaccessible" means not capable of being entered, reached, or used.

"Lockdown" means a situation where children are isolated from a security threat and access within and to the center is restricted.

"Overnight care" means care provided after 7 p.m. and through the night.

"Over-the-counter or nonprescription medication" means medication that can be purchased without a written prescription. This includes herbal remedies and vitamins and mineral supplements.

"Parent" means a parent by blood, marriage, or adoption and also means a legal guardian or other person standing in loco parentis.

"Sanitized" means treated in such a way as to remove bacteria and viruses from inanimate surfaces through first cleaning and secondly using a solution of one tablespoon of bleach mixed with one gallon of water and prepared fresh daily or using a sanitizing solution approved by the U.S. Environmental Protection Agency. The surface of the item is sprayed or dipped into the sanitizing solution and then allowed to air dry for a minimum of two minutes or according to the sanitizing solution instructions.

"Serious injury" means a wound or other specific damage to the body, such as unconsciousness; broken bones; dislocation; a deep cut requiring stitches; poisoning; concussion; or a foreign object lodged in eye, nose, ear, or other body orifice.

"Shaken baby syndrome" or "abusive head trauma" means a traumatic injury that has been inflicted upon the brain of an infant or young child. The injury can occur during violent shaking causing the child's head to whip back and forth, the brain to move about, and blood vessels in the skull to stretch and tear.

"Shelter-in-place" means movement of occupants of the building to designated protected spaces within the building.

"Staff" means administrative, activity, and service personnel, including the vendor when the vendor is an individual who works in the center, any persons counted in the staff-to-children ratios, or any persons working with a child without sight and sound supervision of a staff member.

"Vendor" means a legally operating child care provider who is approved by the department to participate in the Child Care Subsidy Program. Multiple facilities or sites operated by the same person, entity, or organization are considered separate vendors.

"Vendor agreement" means the agreement between the department and a vendor that must be entered into and signed by all vendors before child care payments paid to the vendor under the Child Care Subsidy Program can be authorized.

"Volunteer" means a person who works at the center and:

1. Is not paid for services provided to the center;
2. Is not counted in the staff-to-children ratios; and
3. Is in sight and sound supervision of a staff member when working with a child.

Any unpaid person not meeting this definition shall be considered "staff" and shall meet staff requirements.

**Statutory Authority**

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

**Historical Notes**

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-480. (Reserved.)

**Statutory Authority**

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

**Historical Notes**

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-490. Purpose and Applicability.

The standards in this part apply to child day centers that are applying to participate in the Child Care Subsidy Program. The purpose of these standards is to protect children who are less than the age of 13 years, less than the age of 18 years and physically or mentally unable to care for themselves, or are under court supervision and who are separated from their parents during part of the day by:

1. Ensuring that the activities, services, and facilities of centers participating in the Child Care Subsidy Program are conducive to the well-being of children; and
2. Reducing risks to the health and safety of such children in the child care environment.

**Statutory Authority**

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

**Historical Notes**

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-500. Operational Responsibilities.

A. The vendor shall ensure compliance with the standards in this part, the terms of the vendor agreement, and all relevant federal, state, or local laws and regulations.

B. Pursuant to § [63.2-1725](#) of the Code of Virginia, the vendor shall ensure that the applicant and any staff who is or will be involved in the day-to-day operations of the center or is or will be alone with, in control of, or supervising one or more of the children (i) has not been

convicted of any barrier crime as defined in § [19.2-392.02](#) of the Code of Virginia and (ii) is not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth.

C. The vendor shall ensure that the center does not exceed the capacity of children cared for as allowed by law or regulation.

D. When at least one child receives care for compensation, all children who are in care and supervision count in the capacity of children being cared for. When children 13 years or older are enrolled in the program and receive supervision in the program, they shall be counted in the number of children receiving care, and the vendor shall comply with the standards in this part for these children.

E. The vendor shall inform all staff who work with children of children's allergies, sensitivities, and dietary restrictions.

F. The vendor shall maintain, in a way that is accessible to all staff who work with children, a current written list of all children's allergies, sensitivities, and dietary restrictions. This list shall be dated and kept confidential in each room or area where children are present.

G. Religious exempt child day centers that are exempt from licensure in accordance with § [63.2-1716](#) of the Code of Virginia shall be in compliance with all requirements of § [63.2-1716](#).

#### Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

#### Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

### 22VAC40-665-510. General Recordkeeping; Reports.

A. Staff records and children's information shall be treated confidentially.

B. For each group of children, the vendor shall maintain a written hard copy record of daily attendance that documents the arrival and departure of each child in care as it occurs.

C. Records, reports, and information required by this part may be kept as hard copy or electronically, except attendance records must be maintained pursuant to subsection B of this section, and shall be maintained and made accessible to department representatives for five years after termination of services or separation from employment unless specified otherwise.

#### Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

#### Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-520. Children's Records.

A. The vendor shall maintain and keep at the center a record for each enrolled child, which shall be made accessible to the department's representative upon request.

B. The child's record shall include the following:

1. Child's full name, nickname (if any), sex, address, and birthdate;
2. Name, home address, and telephone number for each parent who has custody;
3. Name, address, and telephone number for each custodial parent's place of employment or school attendance, if applicable;
4. Name, address, and telephone number of at least one person designated by the parent to contact in case of an emergency and the parent cannot be reached;
5. Information on allergies, including food allergies, intolerances to food, medication, or other substances, and actions to be taken in an emergency situation; information on other physical problems; pertinent developmental information; and any special accommodations needed, if applicable;
6. Names of persons other than the custodial parent who are authorized to pick up the child;
7. Immunization records for the child received on or before the child's first day of attendance, except that children experiencing homelessness may provide such records within 90 days of enrollment;
8. Written authorization for emergency medical care should an emergency occur and the parent cannot be located immediately unless the parent presents a written objection for the provision of medical treatment on religious or other grounds;
9. Written authorization to administer prescription or nonprescription medications if the vendor administers medication;
10. Special care instructions, including recommendations for the care and activities of a child with special needs, exception to infant being fed on demand, etc.;
11. A written allergy care plan for each child with a diagnosed food allergy, to include instructions from a physician regarding the food to which the child is allergic and steps to be taken in the event of a suspected or confirmed allergic reaction;
12. Proof of a child's identity and age as stated in § [63.2-1809](#) of the Code of Virginia;
13. Permission to transport child if the vendor provides transportation;
14. Permission for field trips;
15. Permission for swimming or wading activities to include a parent's statement of the child's swimming ability, if applicable;

16. A written statement that the vendor will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible if so requested by the vendor;
17. Any written agreements between the parent and the vendor; and
18. Documentation of the enrollment of a child experiencing homelessness enrolled under provisions of [22VAC40-665-560](#) A 2.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-530. Staff Records.

The following records shall be kept for each staff person:

1. Name, address, verification of age, and date of employment or volunteering.
2. Documentation that background checks were completed, including:
  - a. The department's letter indicating eligibility to be hired provided by the department or the department's contractor indicating:
    - (1) Satisfactory results of the fingerprint-based national criminal background check; and
    - (2) Satisfactory results of the Virginia Child Protective Services Central Registry check.
  - b. Satisfactory results of the child abuse and neglect registry from any other state in which the individual has resided in the preceding five years.
  - c. The individual's sworn statement or affirmation as to whether the individual has ever been:
    - (1) The subject of a founded complaint of child abuse or neglect within or outside the Commonwealth; or
    - (2) Convicted of a crime or is the subject of any pending criminal charges within the Commonwealth or any equivalent offense outside the Commonwealth.
  - d. The vendor shall have documentation for any individual who begins employment or service after the vendor agreement has been signed in the file within 30 days of the individual's beginning date of employment or service.
  - e. Documentation of subsequent background checks conducted every five years.
3. Tuberculosis screening results.
4. Certifications of first aid and cardiopulmonary resuscitation and other certifications as

required by the responsibilities held by the staff member.

5. Documentation that training required in [22VAC-665-580](#) has been completed, including the date completed, the total hours of the session, and the names of the trainer and of any sponsoring organization.

6. Date of separation from employment where applicable.

7. Documentation of the health requirements under [22VAC40-665-540](#) .

#### Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

#### Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018; Errata, 35:8 VA.R. 1092 December 10, 2018.

### 22VAC40-665-540. Health Requirements for Staff.

A. Staff shall be evaluated by a health professional and be issued a statement that the individual is determined to be free of communicable tuberculosis (TB). Documentation of the screening shall be submitted at the time of employment and prior to coming into contact with children. The documentation shall have been completed within the last 30 calendar days of the date of employment and be signed by a physician, physician's designee, or an official of the local health department.

B. Subsequent TB screenings are required at least every two years from the date of the initial screening, or more frequently if recommended by a physician.

C. The vendor or the department's representative may require a report of examination by a licensed physician or mental health professional if there are indications that a staff member's physical or mental health may endanger the health, safety, or well-being of children in care.

D. A staff who is determined by a licensed physician or mental health professional to show an indication of a physical or mental condition that may endanger the health, safety, or well-being of children in care or that would prevent the performance of duties shall be removed immediately from contact with children and food served to children until the condition is cleared as evidenced by a signed statement from the physician or mental health professional.

#### Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

#### Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

### 22VAC40-665-550. Reports.

Reports shall be filed and maintained as follows:

1. The vendor shall inform the department's inspector as soon as practicable, but not more



than one business day, of the following:

- a. The death of a child while under the vendor's supervision;
  - b. A missing child when local authorities have been contacted for help; and
  - c. The suspension or termination of all child care services for more than 24 hours as a result of an emergency situation and any plans to resume child care.
2. The vendor shall inform the department's representative as soon as practicable, but not more than two business days, of any injury to a child while under the vendor's supervision when a referral is made for treatment from a medical professional.
3. Any suspected incident of child abuse or neglect shall be reported in accordance with § [63.2-1509](#) of the Code of Virginia.

#### Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

#### Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-560. Immunizations for Children.

A. The vendor shall obtain documentation that each child has received the immunizations required by the State Board of Health before the child can attend the center.

1. The vendor may allow a child to attend contingent upon a conditional enrollment. Documentation related to the child's conditional enrollment shall be maintained in the child's record.

"Conditional enrollment" means the enrollment of a child for a period of 90 days contingent upon the child having received at least one dose of each of the required vaccines and the child possessing a plan from a physician or local health department for completing his immunization requirements within the ensuing 90 calendar days. If the child requires more than two doses of the hepatitis B vaccine, the conditional enrollment period, for hepatitis B vaccine only, shall be 180 calendar days.

2. If a child is experiencing homelessness and does not have documentation of the required immunizations, the vendor may allow the child to attend during a grace period of no more than 90 days to allow the parent or guardian time to obtain documentation of the required immunizations.

B. The vendor shall obtain documentation of additional immunizations once every six months for children less than two years of age.

C. Pursuant to subsection C of § [22.1-271.2](#) of the Code of Virginia and [12VAC5-110-110](#) , documentation of immunizations is not required for any child whose:

1. Parent submits an affidavit to the vendor, on the form entitled "Certification of Religious

Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or

2. A physician or a local health department states on a Department of Health-approved form that one or more of the required immunizations may be detrimental to the child's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-570. General Qualifications.

A. The vendor must be at least 18 years of age.

B. The vendor, and any staff who are left alone with children, shall be capable of communicating effectively both orally and in writing as applicable to the job responsibility and be capable of communicating with emergency personnel.

C. Staff must be at least 16 years of age; however no staff person less than 18 years of age may administer medication.

1. Staff members less than 18 years of age shall be under supervision of an adult staff member who is present in the facility.

2. Adult staff members shall supervise no more than two volunteers or staff members less than 18 years of age at any given time.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-580. Staff Training and Development.

A. Prior to approval as a subsidy vendor, the vendor or designee shall complete the Virginia Preservice Training for Child Care Staff, which shall include training on the following topics and training modules:

1. Building and physical premises safety;

2. Emergency preparedness and response planning;

3. Prevention of sudden infant death syndrome (SIDS) and safe sleep practices;

4. Administration of medication, consistent with standards of parental consent;

5. Prevention of shaken baby syndrome and abusive head trauma (AHT);
6. Prevention of and response to emergencies due to food and allergic reactions;
7. Recognizing child abuse and neglect and reporting responsibilities;
8. Preventing the spread of disease, including immunization requirements;
9. Handling and storage of hazardous materials and appropriate disposal of diapers and other items contaminated by body fluids;
10. Transportation;
11. Foundations of child development;
12. Inclusion: Exploring the meaning and the mindset;
13. Oral health; and
14. Introduction to the Child Care Subsidy Program.

B. Within the first 90 days of employment or subsidy vendor approval all staff who work directly with children shall complete Virginia Preservice Training for Child Care Staff, which shall include training on the following topics and training modules:

1. Building and physical premises safety;
2. Emergency preparedness and response planning;
3. Prevention of sudden infant death syndrome (SIDS) and safe sleep practices;
4. Administration of medication, consistent with standards of parental consent;
5. Prevention of shaken baby syndrome and abusive head trauma (AHT);
6. Prevention of and response to emergencies due to food and allergic reactions;
7. Recognizing child abuse and neglect and reporting responsibilities;
8. Preventing the spread of disease, including immunization requirements;
9. Handling and storage of hazardous materials and appropriate disposal of diapers and other items contaminated by body fluids;
10. Transportation;
11. Foundations of child development;
12. Inclusion: Exploring the meaning and mindset;
13. Oral health; and
14. Introduction to the Child Care Subsidy Program.

C. All staff who work directly with children and who are employed prior to October 17, 2018, shall complete Virginia Preservice Training for Child Care Staff sponsored by the Department

of Social Services, to include all of the topics applicable to new staff, within January 16, 2019. This training may count for staff annual training requirements in subsection H of this section.

D. Orientation training for staff shall be completed on the following facility specific topics prior to the staff member working alone with children and within seven days of the date of employment or the date of subsidy vendor approval:

1. Playground safety procedures;
2. Responsibilities for reporting suspected child abuse or neglect;
3. Confidentiality;
4. Supervision of children, including arrival and dismissal procedures;
5. Procedures for action in the case of lost or missing children, ill or injured children, and medical and general emergencies;
6. Medication administration procedures, if applicable;
7. Emergency preparedness plan as required in [22VAC40-665-770 B](#);
8. Prevention of shaken baby syndrome and abusive head trauma including coping with crying babies and fussy or distraught children;
9. Prevention of sudden infant death syndrome and use of safe sleeping practices;
10. Staff who work with children that have food allergies shall receive training in preventing exposure to foods to which the child is allergic, preventing cross contamination, and recognizing and responding to any allergic reactions; and
11. Transportation.

E. All staff who work directly with children shall have within 90 days of the date of employment or 90 days from subsidy vendor approval:

1. Current certification in cardiopulmonary resuscitation (CPR) appropriate to the age of children in care. The training shall include an in-person competency demonstration; and
2. Current certification in first aid. However, staff who is a registered nurse or licensed practical nurse with a current license from the Board of Nursing shall not be required to obtain first aid certification.

During the 90-day period, there must always be at least one staff with current CPR and first aid training present during operating hours of the center.

F. All staff who work directly with children and who are employed by an approved vendor prior to October 17, 2018, must complete CPR and first aid training as required by this section within January 16, 2019. During this 90 days, there must always be at least one staff with current CPR and first aid training present during operating hours of the center.

G. CPR and First Aid training may count toward the annual training hours required in

subsection H of this section if documentation for training as required in subdivision 5 of [22VAC40-665-530](#) is maintained.

H. Staff who work directly with children shall, in addition to preservice and orientation training required in subsections A through D of this section, annually attend at least 16 hours of training and staff development activities, to include the department's health and safety update course. Training shall be related to child safety, child development, the function of the center, and any required department sponsored training.

I. To safely perform medication administration practices, whenever a vendor agrees to administer prescribed medications, the (i) administration shall be performed by a staff member who has satisfactorily completed a training program for this purpose developed by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; or (ii) administration shall be performed by a staff member who is licensed by the Commonwealth of Virginia to administer medications.

The administration of medicines by a vendor may be limited by policy to:

1. Prescription medications;
2. Over-the-counter or nonprescription medications; or
3. No medications.

J. Staff required to have the training specified in subsection I of this section shall be retrained at three-year intervals.

K. There shall be at least one staff on duty who has obtained within the last three years instruction in performing a daily health observation of children. Daily health observation training shall include:

1. Components of daily health check for children;
2. Inclusion and exclusion of a child when the child is exhibiting symptoms that indicate possible illness;
3. Description of how diseases are spread and procedures and methods for reducing the spread of disease;
4. Information concerning the Virginia Department of Health Notification of Reportable Diseases pursuant to [12VAC5-90-80](#) and [12VAC5-90-90](#) , also available from the local health department and the website of the Virginia Department of Health; and
5. Staff occupational health and safety practices in accordance with Occupational Safety and Health Administration's bloodborne pathogens regulation (29 CFR 1910.1030).

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-590. Certifications by Other Agencies; Requirements Prior to Initial Approval.

Before approval of a vendor agreement and before use of newly constructed, renovated, remodeled, or altered buildings or sections or buildings, written documentation of the following shall be provided by the vendor to the department representative:

1. Certification by the authority having jurisdiction that each building meets building and fire codes or that a plan of correction has been approved; and
2. Certification from the local health department, or approval of a plan of correction, for meeting requirements for:
  - a. Water supply;
  - b. Sewage disposal system; and
  - c. Food service, if applicable.
3. Any building that is currently zoned or certified for school occupancy and houses a public or private school during the school year shall be considered to have met the requirements of subdivision 1 of this section when housing a center serving only children two and a half years of age or older.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-600. Certification by Other Agencies; Requirements Subsequent to Initial Approval.

A. The vendor shall provide the department representative an annual fire inspection report from the appropriate fire official having jurisdiction. If a center is located in a building currently housing a public or private school, the school's annual fire inspection report shall be accepted.

B. The vendor shall provide the department representative an annual certification from the Health Department, or approvals of a plan of correction, for meeting requirements for:

1. Water supply;
2. Sewage disposal system; and
3. Food service, if applicable.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-610. Building or Facility Maintenance.

A. Areas and equipment of the center, inside and outside, shall be maintained in a clean, safe, and operable condition. Unsafe conditions shall include splintered, cracked or otherwise deteriorating wood; chipped or peeling paint; visible cracks, bending or warping, rusting, or breakage of any equipment; head entrapment hazards; protruding nails, bolts, or other components that entangle clothing or skin; and unstable heavy equipment, furniture, or other items that a child could pull down on himself.

B. Inside areas occupied by children shall be maintained no lower than 68°F and shall not exceed 80°F unless fans or other cooling systems are in use.

C. In areas used by children of preschool age or younger, the following shall apply:

1. Fans, when used shall be out of reach of children and cords shall be secured so as not to create a hazard.
2. Electrical outlets shall have protective covers that are of a size that cannot be swallowed by children.

D. Building equipment shall include an in-service, nonpay telephone.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-620. Hazardous Substances and Other Harmful Agents.

A. Hazardous substances such as cleaning materials, insecticides, and pesticides shall be kept in a locked place using a safe locking method that prevents access by children. If a key is used, the key shall not be accessible to children. Cleaning supplies to clean and sanitize the diapering area or toilet chairs do not need to be kept locked during diapering or toilet training time as long as they are inaccessible to children.

B. Pesticides or insecticides shall not be stored in areas used by children or in areas used for food preparation or storage.

C. Cleaning and sanitizing materials shall not be located above food, food equipment, utensils, or single-use articles and shall be stored separate from food.

D. If hazardous substances are not kept in original containers, the substitute container shall clearly indicate its contents.

E. Smoking and the use of electronic smoking devices shall be prohibited in the interior of a center, in vehicles when children are being transported, and if permitted outside, shall be prohibited in the presence of children.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-630. Restroom Area and Furnishings.

A. The facility shall have at least two toilets and two sinks.

B. The facility shall have at least one toilet and one sink for every 30 children.

C. Each restroom area provided for children shall:

1. Be within a contained area, readily available, and within the building used by the children;
2. Have toilets that are flushable;
3. Have sinks located near the toilets and that are supplied with running warm water that does not exceed 120°F;
4. Be equipped with soap, toilet paper, and disposable towels or an air dryer within reach of the children; and
5. A restroom for school age children that contains more than one toilet shall have at least one toilet enclosed.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-640. Play Areas.

The vendor shall ensure that all areas of the premises accessible to children are free of obvious injury hazards, including providing and maintaining sand or other cushioning material under playground equipment. The requirements of this section shall not prohibit child day center programs providing care to school age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school years from permitting school age children to use outdoor play equipment and areas approved for use by students of the school during school hours.



§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-650. Supervision, Ratio, and Group Size Requirements.

A. The vendor, except those exempt from licensure operated by or under the auspices of a religious institution, shall ensure that the following ratio requirements are maintained:

1. For children from birth to the age of 16 months: one staff member for every four children;
2. For children 16 months to two years: one staff member for every five children;
3. For two-year-old children: one staff member for every eight children;
4. For children from three years to the age of eligibility to attend public school, five years by September 30: one staff member for every 10 children;
5. For children from age of eligibility to attend public school through eight years: one staff member for every 18 children; and
6. For children from nine years through 12 years of age: one staff member for every 20 children.

B. Except during meals or snacks, the designated rest period, evening and overnight sleep time, outdoor play, field trips, special group activities, or during the first and last hour of operation when the vendor operates more than six hours per day, the vendor, except those exempt from licensure operated by or under the auspices of a religious institution, shall ensure that the following group size requirements are maintained at all times:

1. For children from birth to the age of 16 months: the maximum group size is 12 children;
2. For children 16 months to two years: the maximum group size is 15 children;
3. For two-year-old children: the maximum group size is 24 children; and
4. For children from three years to the age of eligibility to attend public school, five years by September 30: the maximum group size is 30 children.

Group size requirements in this section do not apply to children school age eligible through 12 years of age or when a variance has been granted by the Division of Licensing Programs.

C. Facilities operated by, or under the auspices of, a religious institution and exempt from licensure shall employ supervisory personnel as set forth in § [63.2-1716](#) of the Code of Virginia and shall ensure the following ratio requirements are maintained:

1. One staff member to four children from ages zero to 16 months;

2. One staff member to five children from ages 16 months to 24 months;
3. One staff member to eight children from ages 24 months to 36 months;
4. One staff member to 10 children from ages 36 months to five years;
5. One staff member to 20 children from ages five years to nine years; and
6. One staff member to 25 children from ages nine years to 12 years.

D. With the exception of when meals or snacks are served, the designated rest period, evening and overnight sleep time, outdoor play, and field trips, special group activities, or during the first and last hour of operation when the vendor operates more than six hours per day, facilities operated by, or under the auspices, of a religious institution and are exempt from licensure shall ensure the following group size requirements are maintained at all times:

1. For children from birth to two years of age: the maximum group size is 12 children;
2. For children from two years to six years of age: the maximum group size is 30 children; and
3. For children who are six years up to 12 years of age: group size requirements in this section do not apply.

Vendors operated by, or under the auspices, of a religious institution must have a staff member present for each age group of children as defined in § [63.2-1716](#) of the Code of Virginia. Example: one staff must be present for any of the children age birth to 24 months, an additional staff member must be present if any of the children are ages two to six years, and a third staff member must be present if any children are ages six to 12 years.

E. The vendor shall develop and implement a written policy and procedure that describes how the vendor will ensure that each group of children receives care by consistent staff or team of staff members.

F. Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.

G. When children are in ongoing mixed age groups, the staff-to-children ratio and group size applicable to the youngest child in the group shall apply to the entire group.

H. Children less than 10 years of age shall always be within actual sight and sound supervision of staff, except that staff need only be able to hear a child who is using the restroom provided that:

1. There is a system to ensure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the restroom area while in use by children; and
2. Staff checks on a child who has not returned from the restroom after five minutes. Depending on the location and layout of the restroom, staff may need to provide

intermittent sight supervision of the children in the restroom area during this five-minute period to assure the safety of children and to provide assistance to children as needed.

I. Children 10 years of age and older shall be within actual sight and sound supervision of staff except when the following requirements are met:

1. Staff can hear or see the children (video equipment, intercom systems, or other technological devices shall not substitute for staff being able to directly see or hear children);
2. Staff are nearby so that they can provide immediate intervention if needed;
3. There is a system to ensure that staff know where the children are and what they are doing;
4. There is a system to ensure that individuals who are not staff members or persons allowed to pick up children in care do not enter the areas where children are not under sight supervision; and
5. Staff provides sight and sound supervision of the children at variable and unpredictable intervals not to exceed 15 minutes.

J. When the outdoor activity area is not adjacent to the center, there shall be at least two staff members in the outdoor activity area whenever one or more children are present.

K. Staff shall not allow a child to leave the center unsupervised.

L. For vendors operated by, or under the auspices of, a religious institution and exempt from licensure, during designated rest periods and the designated sleep period of evening and overnight care programs, the ratio of staff to children over 16 months of age may be double the number of children to each staff required by subsection C of this section if:

1. The staff person shall be present in the same space as sleeping children;
2. Staff counted in the overall rest period ratio are on the same floor as the sleeping or resting children and available in case of emergency; and
3. An additional person is present to help.

Once at least half of the children in the resting room or area are awake and off their mats or cots, the staff-to-child ratio shall meet the ratios as required in subsection C of this section.

M. For vendors not operated by, or under the auspices of, a religious institution, during designated rest periods and the designated sleep period of evening and overnight care programs, the ratio of staff to children over 16 months of age may be double the number of children to each staff required by subsection A of this section if:

1. The staff person shall be present in the same space as sleeping children;
2. Staff counted in the overall rest period ratio are on the same floor as the sleeping or resting children and available in case of emergency; and

3. An additional person is present to help.

Once at least half of the children in the resting room or area are awake and off their mats or cots, the staff-to-child ratio shall meet the ratios as required in subsection A of this section.

Statutory Authority

§ [63.2-217](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018; amended, Virginia Register [Volume 36, Issue 02](#) , eff. October 17, 2019.

## 22VAC40-665-660. Supervision Near Water.

A. Indoor swimming pools on the center premises shall be kept locked when the pool is not in use. Outdoor swimming pools located on the center premises shall be enclosed by safety fences and gates that are in compliance with the applicable edition of the Virginia Uniform Statewide Building Code ([13VAC5-63](#) ) and shall be kept locked when the pool is not in use.

B. The staff-to-children ratios required by [22VAC40-665-650](#) shall be maintained while children are participating in swimming or wading activities.

1. Notwithstanding the staff-to-children ratios already indicated, at no time shall there be fewer than two staff members supervising the activity.

2. The designated certified lifeguard shall not be counted in the staff-to-children ratios.

C. If a pool, lake, or other swimming area has a water depth of more than two feet, a certified lifeguard holding a current certificate shall be on duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water.

D. The vendor shall have emergency procedures and written safety rules for swimming or wading or follow the posted rules of public pools that are:

1. Posted in the swimming area when the pool is located on the premises of the center; and

2. Explained to children participating in swimming or wading activities.

E. Staff shall have a system for accounting for all children in the water.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-670. Daily Activities.

A. The variety of daily activities for all age groups shall be age and stage appropriate and provide opportunities for teacher-directed, self-directed, and self-chosen tasks and activities,

a balance of active and quiet activities, indoor and outdoor activities, individual and group activities, and curiosity and exploration.

B. For a child who cannot move without help, staff shall offer to change the place and position of the child at least every 30 minutes or more frequently depending on the child's individual needs. For an awake infant not playing on the floor or ground a change in play space shall be provided by staff at least every 30 minutes or more often as determined by the individual infant's needs.

C. There shall be a flexible daily schedule for infants based on their individual needs.

D. Infants shall be allowed to sleep when needed.

1. When an infant is placed in his crib, he shall be placed on his back (supine).
2. When an infant is able to easily turn over from the back (supine) to the belly (prone) position and is placed in his crib, he shall still be put on his back but allowed to adopt whatever position he prefers. This applies unless otherwise directed by the infant's physician or health care provider in writing.
3. Resting or sleeping infants shall be individually checked every 15 to 20 minutes.

E. Infants shall be provided comfort when needed.

F. Staff shall provide frequent opportunities for infants to creep, crawl, toddle, and walk.

G. Infants who cannot turn themselves over and are awake shall be placed on their stomachs for at least 30 minutes each day to facilitate upper body strength and to address misshapen head concerns.

H. Infants shall be protected from older children.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-680. Behavioral Guidance.

A. Behavioral guidance shall be constructive in nature and age and stage appropriate and shall be intended to redirect children to appropriate behavior and resolve conflicts.

B. In order to promote the child's physical, intellectual, emotional, and social well-being and growth, staff shall model desired, appropriate behavior and interact with the child and one another to provide needed help, comfort, support and:

1. Respect personal privacy;
2. Respect differences in cultural, ethnic, and family background;

3. Encourage decision-making abilities;
4. Promote ways of getting along;
5. Encourage independence and self-direction; and
6. Use consistency in applying expectations.

C. If time-out is used as a discipline technique:

1. It shall be used sparingly and shall not exceed one minute for each year of the child's age;
2. It shall not be used with infants or toddlers;
3. The child shall be in a safe, lighted, well-ventilated place and within sight and sound of staff; and
4. The child shall not be left alone inside or outside the center while separated from the group.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-690. Forbidden Actions.

The following actions or threats thereof are forbidden:

1. Physical punishment, including striking a child, roughly handling or shaking a child, restricting movement through binding or tying, forcing a child to assume an uncomfortable position, or using exercise as a punishment;
2. Enclosure in a small, confined space or any space that the child cannot freely exit himself; however this does not apply to the use of equipment such as cribs, play yards, high chairs, and safety gates when used for their intended purpose with children preschool age or younger;
3. Punishment by another child;
4. Withholding or forcing of food, water, or rest;
5. Verbal remarks that are demeaning to the child;
6. Punishment for toileting accidents; and
7. Punishment by applying unpleasant or harmful substances.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-700. Parental Involvement and Notifications.

A. The vendor shall notify the parent immediately if a child is lost, requires emergency medical treatment or sustains a serious injury, or dies.

B. The vendor shall notify the parent by the end of the day of any known minor injuries.

C. The vendor shall maintain a written record of children's serious and minor injuries in which entries are made the day of occurrence. The record shall include the following:

1. Date and time of injury;
2. Name of injured child;
3. Type and circumstance of the injury;
4. Staff present and treatment;
5. Date and time when parents were notified; and
6. Staff and parent signatures or two staff signatures.

D. Parents shall be notified immediately of any confirmed or suspected allergic reactions and the ingestion of or contact with any food identified in the written care plan required in [22VAC40-665-520](#) B 11 even if a reaction did not occur.

E. Staff shall promptly inform parents when persistent behavioral problems are observed and identified.

F. Parents shall be provided at least semiannually in writing information on their child's behavior, development, adjustment, and needs. This requirement does not apply to programs that operate 12 weeks or less a year.

G. Parents shall be informed of the reason for a child's termination from care.

H. A custodial parent shall be admitted to any child day program. Such right of admission shall apply only while the child is in the child day program, in accordance with § [63.2-1813](#) of the Code of Virginia.

I. When children at the center have been exposed to a communicable disease listed in the Department of Health's current communicable disease chart, the parents shall be notified within 24 hours or the next business day of the vendor having been informed unless forbidden by law. Children's exposure to life threatening diseases shall be reported to parents immediately.

J. Parents shall be informed of the vendor's emergency preparedness plan.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

## 22VAC40-665-710. Furnishings, Equipment, and Materials.

A. Furnishings, materials, and equipment shall be age and stage appropriate for the children.

B. Children shall be protected from materials that could be swallowed or present a choking hazard. Toys or objects less than 1-1/4 inches in diameter and less than two inches in length shall be kept out of reach of children less than three years of age.

C. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

D. Disposable products shall be used once and discarded.

E. Play yards and portable cribs where used shall meet the Juvenile Products Manufacturers Association (JPMA) and the American Society for Testing and Materials (ASTM) requirements and shall not be used after recalled.

F. Cribs, cots, rest mats, or beds shall be provided for children during the designated rest periods and shall not be occupied by more than one child at a time.

1. Cribs shall be provided for children from birth through 12 months of age and for children older than 12 months of age who are not developmentally ready to sleep on a cot, rest mat, or bed during the designated rest periods.

2. Cots, rest mats, or beds shall be provided for children older than 12 months of age.

G. There shall be at least 12 inches of space between occupied cribs, cots, beds, and rest mats.

H. Full-size cribs shall:

1. Meet the current Consumer Product Safety Commission Standards (16 CFR Part 1219).

2. Have mattresses that fit snugly next to the crib so that no more than two fingers can be inserted between the mattress and the crib.

I. Pillows and filled comforters shall not be used by children less than 12 months of age while sleeping or resting including quilts, sheepskins, or stuffed toys.

J. Cribs shall be placed where objects outside the crib such as electrical cords or cords from blinds, curtains, etc. are not within reach of infants or toddlers.

K. Use of bumper pads shall be prohibited.

L. Toys or objects hung over an infant in a crib and crib gyms that are strung across the crib may not be used for infants older than five months of age or infants who are able to push up on their hands and knees.

M. Crib sides shall always be up, and the fastenings secured when a child is in the crib.



N. Double decker cribs shall not be used.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-720. Bedding and Linens for Use While Sleeping or Resting.

A. Linens shall be assigned for individual use.

B. Pillows when used shall be assigned for individual use and covered with pillow cases.

C. Mattresses when used shall be covered with a waterproof material which can be cleaned and sanitized.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-730. Preventing the Spread of Disease.

A. A child shall not be allowed to attend the center for the day if he has:

1. A temperature over 101°F;
2. Recurrent vomiting or diarrhea; or
3. Symptoms of a communicable disease.

B. If a child needs to be excluded according to subsection A of this section, the following shall apply:

1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are observed; and
2. The child shall remain in a designated quiet area until leaving the center.

C. When any surface has been contaminated with body fluids, it shall be cleaned and sanitized.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-740. Hand Washing and Toileting Procedures.

### A. When hand washing, the following shall apply.

1. Children's hands shall be washed with soap and running water or disposable wipes before and after eating meals or snacks.
2. Children's hands shall be washed with soap and running water after toileting and any contact with blood, feces, or urine.
3. Staff shall wash their hands with soap and running water before and after helping a child use the toilet or changing a diaper, after the staff member uses the toilet, after any contact with body fluids, and before feeding or helping children with feeding, and before preparing or serving food or beverages.
4. If running water is not available, a germicidal cleansing agent administered per manufacturer's instruction may be used.

### B. Diapering requirements are as follows:

1. The diapering area shall be accessible and within the building used by children.
2. There shall be sight and sound supervision for all children when a child is being diapered.
3. The diapering area shall have:
  - a. Access to a sink with running warm water not to exceed 120°F;
  - b. Soap, disposable towels, and single-use gloves such as surgical or examination gloves;
  - c. A nonabsorbent surface for diapering or changing shall be used. For children younger than three years, this surface shall be a changing table or countertop designated for changing;
  - d. The appropriate disposal container as required by subdivision 6 of this subsection; and
  - e. A leak-proof covered receptacle for soiled linens.
4. When a child's clothing or diaper becomes wet or soiled, the child shall be cleaned and changed immediately upon discovery.
5. Disposable diapers shall be used unless the child's skin reacts adversely to disposable diapers.
6. Disposable diapers shall be disposed in a leak-proof or plastic-lined storage system that is either foot-operated or used in such a way that neither the staff member's hand nor the soiled diaper touches an exterior surface of the storage system during disposal.
7. When cloth diapers are used, a separate leak-proof storage system as specified in

subdivision 6 of this subsection shall be used.

8. The diapering surface shall be used only for diapering or cleaning children, and it shall be cleaned with soap and at least room temperature water and sanitized after each use. Tables used for children's activities or meals shall not be used for changing diapers. Individual disposable barriers may be used between each diaper change. If the changing surface becomes soiled, the surface shall be cleaned and sanitized before another child is diapered.

9. Staff shall ensure the immediate safety of a child during diapering.

C. For every 10 children in the process of being toilet trained, there shall be at least one toilet chair or one child-sized toilet, or at least one adult sized toilet with a platform or steps and adapter seat.

1. The location of these items shall allow for sight and sound supervision of children in the classroom if necessary for the required staff-to-children ratios to be maintained.

2. Toilet chairs shall be emptied promptly and cleaned and sanitized after each use.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-750. General Requirements for Medication Administration.

A. The vendor may administer prescription medication to a child with written permission of the parent, provided:

1. The medication is administered by a staff who meets the requirements of [22VAC40-665-580](#) I and J;
2. The staff administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container; and
3. The staff administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration.

B. The vendor may administer over-the-counter or nonprescription medication to a child with written permission from the parent, provided the medication is:

1. Administered by a staff 18 years of age or older;
2. Labeled with the child's name;
3. In the original container with the manufacturer's direction label attached; and
4. Given only at the dose, duration, and method of administration specified on the

manufacturer's label for the age or weight of the child needing the medication.

C. When needed, medication shall be refrigerated.

D. Medication, except for those prescriptions designated otherwise by written physician's order, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children.

E. The vendor shall keep a record of prescription and nonprescription medication given to children, which shall include the following:

1. Name of the child to whom medication was administered;
2. Amount and name of medication administered to the child;
3. The day and time the medication was administered to the child;
4. Name of staff administering the medication;
5. Any adverse reaction; and
6. Any medication error.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-760. First Aid and Emergency Supplies.

A. The following emergency supplies shall be on each floor of each building used by children, accessible to outdoor play areas, on field trips, in vehicles used for transportation, and wherever children are in care:

1. A first aid kit that contains at a minimum:
  - a. Scissors;
  - b. Tweezers;
  - c. Gauze pads;
  - d. Adhesive tape;
  - e. Bandages, assorted types and sizes;
  - f. An antiseptic cleansing solution and pads;
  - g. Digital thermometer; and
  - h. Single-use gloves such as surgical or examination gloves.
2. An ice pack or cooling agent.

B. Each first aid kit shall be easily accessible to staff but not to children.

C. The following nonmedical emergency supplies shall be required:

1. One working, battery-operated flashlight; and
2. One working, battery-operated radio.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-770. Procedures for Emergencies.

A. The vendor shall have a written emergency preparedness plan that addresses staff responsibility and facility readiness with respect to emergency evacuation, relocation, lockdown and shelter-in-place procedures. The plan shall address the most likely to occur emergency scenarios, including severe storms, loss of utilities, natural disaster, chemical spills, intruder, and violence on or near the facility, and facility damage or other situations that may require evacuation, lockdown, or shelter-in-place.

B. The emergency preparedness plan shall contain procedural components for:

1. Evacuation procedures, including:
  - a. Scenario applicability;
  - b. Methods to alert staff and emergency responders;
  - c. Designated primary and secondary routes out of the building;
  - d. Designated assembly points away from the building;
  - e. Designated relocation site;
  - f. Methods to ensure all children are evacuated from the building, and if necessary, moved to a relocation site;
  - g. Methods to account for all children at the assembly point and relocation site;
  - h. Method of communication with parents after the evacuation or relocation;
  - i. Accommodations or special requirements for infants, toddlers, and children with special needs to ensure their safety during evacuation or relocation;
  - j. Method to ensure essential documents, including emergency contact information, attendance records, medications, and supplies are taken to the assembly point and relocation site; and
  - k. Procedures to address reuniting children with a parent or an authorized person

designated by the parent to pick up the child.

2. Shelter-in-place procedures, including:

- a. Scenario applicability, inside assembly points, primary and secondary means of access and egress;
- b. Method to account for all children at the safe locations;
- c. Method to ensure essential documents (attendance records, emergency contact information, etc.) and special health supplies are carried into the designated assembly points;
- d. Method of communication after the shelter-in-place;
- e. Accommodations or special requirements for infants, toddlers, and children with special needs to ensure their safety during shelter-in-place; and
- f. Procedures to address reuniting children with a parent or an authorized person designated by the parent to pick up the child.

3. Lockdown procedures, to include facility containment, including:

- a. Methods to alert staff and emergency responders;
- b. Methods to secure the facility and designated lockdown locations;
- c. Methods to account for all children in the lockdown locations;
- d. Methods of communication with parents and emergency responders;
- e. Accommodations or special requirements for infants, toddlers, and children with special needs to ensure their safety during lockdown; and
- f. Procedures to address reuniting children with a parent or an authorized person designated by the parent to pick up the child.

4. Staff training requirements, drill frequency, and plan review and update.

5. Continuity of operations procedures to ensure that essential functions are maintained during an emergency.

6. Other special procedures developed with local authorities.

C. Emergency evacuation and shelter-in-place procedures or maps shall be posted in a location conspicuous to staff and children on each floor of each building.

D. A 911 or local dial number for police, fire, and emergency medical services and the number of the regional poison control center shall be posted in a visible and conspicuous place.

E. The vendor shall ensure that all staff receives training regarding emergency evacuation, relocation, shelter-in-place, and lockdown procedures on an annual basis and at the end of each plan update.

F. The vendor shall ensure that the emergency plans are reviewed with any volunteers who work more than six hours per week prior to volunteering and on an annual basis.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-780. Emergency Response Drills.

A. The emergency response drills shall be practiced, at a minimum:

1. Evacuation procedures shall be practiced at least monthly;
2. Shelter-in-place procedures shall be practiced twice a year; and
3. Lockdown procedures shall be practiced at least annually.

B. The vendor shall maintain a record of the dates of the practice drills for one year. For vendors offering multiple shifts, the simulated drills shall be divided evenly among the various shifts.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-790. Nutrition and Food Services.

A. Drinking water shall be accessible to all children.

B. When vendors provide meals or snacks, the following shall apply:

1. Vendors offering both meals and snacks shall serve a variety of nutritious foods and sufficient portions.
2. Children three years of age or younger shall not be offered foods that are considered to be potential choking hazards.

C. When food is brought from home, the following shall apply:

1. The food container shall be clearly labeled in a way that identifies the owner;
2. The vendor shall have extra food or shall have provisions to obtain food to serve to children so that they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and
3. Unused portions of opened food shall be discarded by the end of the day or returned to the parent.

D. Food shall be prepared, stored, transported, and served in a clean and sanitary manner.

E. When food is prepared to which a child in care is allergic, staff shall take steps to avoid cross contamination in order to prevent an allergic reaction.

F. A child with a diagnosed food allergy shall not be served any food identified in the written care plan required in [22VAC40-665-520](#) B 11.

G. Tables and high chair trays shall be sanitized before and after each use for feeding and cleaned at least daily.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-800. Special Feeding Needs.

A. High chairs, infant carrier seats, or feeding tables shall be used for children less than 12 months who are not held while being fed.

B. When a child is placed in an infant seat, high chair, or feeding table, the protective belt shall be fastened securely.

C. Bottle fed infants who cannot hold their own bottles shall be held when fed. Bottles shall not be propped or used while the child is in his designated sleeping location.

D. Infants shall be fed on demand or in accordance with parental instructions.

E. Prepared infant formula shall be refrigerated, dated, and labeled with the child's name if more than one infant is in care.

F. Heated formula and baby food shall be stirred or shaken and tested for temperature before serving to children.

G. Milk, formula, or breast milk shall not be heated or warmed directly in a microwave. Water for warming milk, formula, or breast milk may be heated in a microwave.

H. Formula or breast milk shall not remain unrefrigerated for more than two hours and may not be reheated.

I. Prepared baby food not consumed during that feeding by an infant may be used by that same infant later in the same day, provided that the food is not served out of the baby jar and is labeled with the child's name, dated, and stored in the refrigerator; otherwise, it shall be discarded or returned to the parent at the end of the day.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes



## 22VAC40-665-810. Transportation and Field Trips.

A. If the vendor provides transportation, the vendor shall be responsible for care of the child from the time the child boards the vehicle until returned to the parent or person designated by the parent.

B. Drivers must be 18 years of age or older and possess a valid driver's license to operate the vehicle being driven.

C. Any vehicle used by the vendor for the transportation of children shall meet the following requirements:

1. The vehicle shall be manufactured for the purpose of transporting people seated in an enclosed area;
2. The vehicle's seats shall be attached to the floor;
3. The vehicle shall be insured with at least the minimum limits established by Virginia state statutes as required by § [46.2-472](#) of the Code of Virginia;
4. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children; and
5. If volunteers supply personal vehicles, the vendor is responsible for ensuring that the requirements of this subsection are met.

D. The vendor shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed as required by §§ [46.2-1095](#) through [46.2-1100](#) of the Code of Virginia, and the stated maximum number of passengers in a given vehicle is not exceeded;
2. The children remain seated and each child's arms, legs, and head remain inside the vehicle;
3. Doors are closed properly and locked unless locks were not installed by the manufacturer of the vehicle;
4. At least one staff member or the driver always remains in the vehicle when children are present; and
5. Staff has a list of the names of the children being transported and allergy care plans, if necessary.

E. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

F. Children shall cross streets at corners or crosswalks or other designated safe crossing points if no corner or crosswalk is available.

G. Staff shall verify that all children have been removed from the vehicle at the conclusion of any trip.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-820. Animals and Pets.

Animals that are kept on the premises of the center shall be vaccinated, if applicable, against diseases that present a hazard to the health or safety of children.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## 22VAC40-665-830. Evening and Overnight Care.

A. All supervision requirements apply during evening and overnight care.

B. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours and are not required to sleep in cribs.

C. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children who are not required to sleep in cribs.

D. In addition to [22VAC40-665-720](#) about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

E. When children are eight years of age or older, boys and girls shall have separate sleeping areas.

F. For vendors providing overnight care, an operational tub or shower with heated and cold water shall be provided.

G. When bath towels are used, they shall be assigned for individual use.

H. For children in evening and overnight care, quiet activities and experiences shall be available immediately before bedtime.

Statutory Authority

§§ [63.2-217](#) , [63.2-319](#) , and [63.2-611](#) of the Code of Virginia; 45 CFR 98.11.

Historical Notes

Derived from [Volume 35, Issue 02](#) , eff. October 17, 2018.

## Forms (22VAC40-665)

[Commonwealth of Virginia Certificate of Religious Exemption, Form CRE1 \(rev. 1992\)](#)

[Commonwealth of Virginia School Entrance Health Form, MCH 213G \(rev. 3/2014\)](#)

## Documents Incorporated by Reference (22VAC40-665)

[Child Care and Development Fund \(CCDF\) Plan for Virginia FFY 20162018, effective October 1, 2015](#)